

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES

Call to Order: By **CHAIRMAN CHRISTINE KAUFMANN**, on January 10, 2005 at 8:10 A.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Christine Kaufmann, Chairman (D)
Sen. John Cobb (R)
Rep. Joey Jayne (D)
Sen. Greg Lind (D)
Rep. Penny Morgan (R)
Sen. Dan Weinberg (D)

Members Excused: None.

Members Absent: Rep. Walter McNutt (R)

Staff Present: Pat Gervais, Legislative Branch
Laura Good, Committee Secretary
Lois Steinbeck, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

{Comments: No audio exists for this meeting.}

CHAIR REP. CHRISTINE KAUFMANN, HD 81, HELENA, called the meeting to order.

Ms. Pat Gervais, Legislative Fiscal Division (LFD), distributed copies of the Department of Public Health and Human Services (DPHHS) Financial-Compliance Audit for the Two Fiscal Years Ended June 30, 2003; a complete list of 2005 Legislation, and a list of 2005 Legislation pertaining to DPHHS, to the committee members, staff, Office of Budget Presentation and Planning (OBPP) and DPHHS representatives.

[EXHIBIT\(jhh06a01\)](#)

[EXHIBIT\(jhh06a02\)](#)

[EXHIBIT\(jhh06a03\)](#)

Ms. Lois Steinbeck, LFD, announced a proposed room change to the Old Supreme Court for Friday, January 14 and Friday, February 14, to accommodate all members of the public who attend the hearings. Members will be notified as soon as this room change is confirmed.

CHAIR KAUFMANN lead discussion of proxy voting. She suggested that proxy votes be submitted on the yellow proxy voting sheets, signed and dated, to another member of the Committee. Votes will also be left open for 24 hours so that absent members are able to submit a vote directly to the Committee Secretary

CHAIR KAUFMANN also discussed the importance of making public hearings a positive and comfortable experience for witnesses. She requested that members refrain from commenting on anyone's appearance, as to avoid misunderstanding.

CHAIR KAUFMANN invited legislative staff to provide any other pertinent information regarding committee procedure.

Ms. Steinbeck stated that a significant amount of education has been planned to help members understand the committee's issues and topics. She noted that there will be a number of appropriations bills dealing with DPHHS issues, including those addressing HIFA, Medicaid Redesign and Children's Mental Health services.

Ms. Steinbeck also provided a brief overview of the DPHHS budget in Governor Schweitzer's budget, which she described as very similar to the Martz budget. She expressed concern that the Schweitzer biennial budget still covers \$1 million in Children's

Health Insurance Program (CHIP) matching funds through private donations.

Ms. Steinbeck deemed the main difference between the two budgets to be Gov. Schweitzer's addition of the I-149 "buck-a-pack" tax and the change in use of tobacco settlement proceeds, whereby many of the programs that were funded with the tobacco settlement proceeds, including some Medicaid benefits and child care matching funds discussed in last session's SB-485, are now paid for by general fund. Instead, Schweitzer shifts tobacco settlement proceeds into tobacco prevention and control. **Ms. Steinbeck** commented that this decision eliminates a level of appropriations complexity and should bring some clarity to issues of funding.

Ms. Steinbeck then provided an overview of the DPHHS budget, stating that if members were adopting the Martz budget they would be authorizing a budget of \$2.6 billion over the biennium, not including pay plan or I-149 funds. In contrast, the Schweitzer budget adds about \$70 million primarily due to the "buck-a-pack" tax expenditures. Over half of this budget is Medicaid services through hospitalization, drugs community based services programs for the developmentally disabled, physically disabled, and mentally ill. It does not include Medicaid administrative costs.

Ms. Steinbeck enumerated a number of important increases in the Executive Budget, including CHIP, foster care, and Temporary Assistance for Needy Families (TANF) child care. She stressed that 70% of this budget is in benefits, or direct payments made by the State to provide direct services for specific individuals. She noted that no other appropriations committee will consider a budget of this financial magnitude or widespread effect. For more information on major issues facing the committee, **Ms. Steinbeck** pointed members to pages B1 & B2 of the committee binders.

Ms. Steinbeck introduced the morning's topics, Medicaid Overview and Medicaid Redesign, noting that the proposed changes signal one of Montana's the largest expansions of services to individuals. She touched on the Medicare Modernization Act, expressing the difficulties of coordinating Montana's efforts with those of three Federal agencies writing rules to implement the Act. She also stated that as a condition of Medicaid participation, states must have the ability to process applications for the Act prior to July 2005, at which time low-income discounts begin.

Ms. Steinbeck went on to note that the Medicare Modernization Act (MMA) requires additional state workload with no guarantee of additional Federal funds for administration and management,

including implementation of a state grievance and resolution process. It also requires participating pharmacies to register in a national point of sales system that allows the Center for Medicare and Medicaid (CMS) to track each consumer's true out-of-pocket costs. She noted that the Department will be responsible for implementing these programs during the legislative interim.

Ms. Steinbeck also touched briefly on the upcoming topics of Children's and Adult Mental Health Services, and closed by encouraging committee members to get involved in interim committees.

Ms. Gervais highlighted several issues by program area. Within the Human Community Services Division, members will need to balance and prioritize the spending of the TANF block grant in conjunction with funding of childcare. The Child and Family Services Division will present issues of supplemental requests and caseload increases. She noted that the Child and Family Services Federal review projected an estimated penalty of \$3.4 million if the Division is not successful in implementing the performance improvement plan. The Child Support Enforcement Division (CSED) will also present supplemental requests, as well as ongoing funding issues dealing with changes in the Federal Incentive Grant calculation and decreases in State special revenue related to TANF collections. She noted the January 6 2005 preview of Disability Services Division issues and stated that the Operations and Technology Division and Fiscal Services Divisions had no major issues.

Responding to Chair Kaufmann's call for questions regarding the budget overview, **REP. PENNY MORGAN (R), HD 57, BILLINGS** asked for more detailed information on Medicaid eligibility basis in Montana.

Ms. Steinbeck replied, noting that overall Montana is at federally mandated minimum levels of eligibility. She directed members to Figure 13 on page B2 in the Overview of the committee binder, which provides information regarding the 2004 Federal Poverty Index. She also stated that generally, childless, able-bodied, able-minded adults are the only group excluded from Medicaid.

Mr. John Chappuis, Deputy Director, DPHHS, expressed that his presentation would also offer further information regarding Medicaid eligibility.

Responding to **SEN. JOHN COBB (R), SD 9, AUGUSTA**, who referred to p. B1, **Ms. Steinbeck** confirmed that Montana's \$81 million general fund biennium increase is due to a \$55 million loss of federal

enhancement funds, as well as the improvement of the State economy, which allows Montana to pay a better match rate. This leaves \$25 million in general fund for new programs or expansions. **Ms. Steinbeck** also noted that the Schweitzer budget adds \$1 million to \$2 million to the general fund, bring the general fund to approximately \$27 million. She went on to note that this would not include any pay-plan bills or bills outside HB-2.

Ms. Steinbeck then introduced Mr. Jerry Anderson, Montana Auditor for the Center for Medicare and Medicaid Studies (CMS).

CHAIR KAUFMANN turned the meeting over to Mr. Chappuis for a Medicaid Agency Overview.

Mr. Chappuis distributed four documents to the Committee members, staff, OBPP and DPHHS representatives: the Medicaid At-a-Glance 2003 brochure, the Montana Medicaid Program State Fiscal Years 2003/2004 Report for the 2005 Legislature, State of Montana Health Insurance Statistics (1 page), and All Medicaid Eligibles FY 2004 & FY 2005 (8 pages).

[EXHIBIT\(jhh06a04\)](#)

[EXHIBIT\(jhh06a05\)](#)

[EXHIBIT\(jhh06a06\)](#)

[EXHIBIT\(jhh06a07\)](#)

Mr. Chappuis began with the Montana Medicaid Program State Fiscal Years 2003/2004 Report for the 2005 Legislature, turning to pages 3-4 and introducing each administrator listed:

Mr. Chuck Hunter, Administrator, Health Resources
Mr. Joe Mathews, Administrator, Disability Services
Ms. Joyce DeCunzo, Administrator, Addictive and Mental Disorders
Ms. Shirley K. Brown, Administrator, Child and Family Services
Ms. Kelly Williams, Administrator, Senior & Long Term Care
Ms. Mary Dalton, Administrator, Quality Assurance Division
Mr. Hank Hudson, Administrator, Human & Community Services
Ms. Jane Smilie, Acting Administrator, Public Health & Safety

Mr. Chappuis then proceeded through the report, beginning with overviews of Montana's Medicaid Program history, Eligibility (Mandatory and Optional populations), State Fiscal Year 2003 Data (including Average Monthly Enrollment, Enrollment and Expenditures by County), and Mental Health and Chemical Dependency Services.

Responding to a question from **SEN. JOHN COBB (R), SD 9, AUGUSTA, Mr. Chappuis** stated that the average size of a Medicaid enrolled family is two to three people.

As **Mr. Chappuis** cross-referenced the State Fiscal Year 2003 Data chart (p. 13) with the charts regarding All Medicaid Eligibles FY 2004 & FY 2005, **REP. MORGAN** requested a reason for the increase in eligibles since January 2003.

Mr. Chappuis stated that fluctuations in the seasonal tourism and building industries account partially for the increase. He also explained that Montana experienced its largest recent increase in enrollment just after September 11, 2001, a jump he believes was due in part to an increased awareness of the need for emergency medical insurance coverage.

SEN. COBB requested information regarding long-term Medicaid eligibility and enrollment, which **Mr. Chappuis** offered to provide at a later date.

Turning to Exhibit 7, **Mr. Chappuis** directed members to charts detailing Medicaid TANF Eligibles FY 2004 & FY 2005, Medicaid-served Pregnant Women & Infants FY 2004 & FY 2005, and Medicaid Disabled Eligibles. He noted that the number of Aged & Disabled Eligibles has seen a reduction in private nursing home enrollment, and that Medicaid Eligibles Aged 65 & Up FY 2004 & FY 2005 has remained relatively stable. He also stated that Family Medicaid has dropped more than usual this year.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 6}

Referring to the State of Montana Health Insurance statistics (Exhibit 6), **Mr. Chappuis** detailed the ways in which government programs like Medicare, Medicaid and CHIP are helping to provide health coverage for an increasing number of Montanans. He also gave a brief overview of the creation of the Children's Mental Health division, reporting that the new division had helped pave the way for significant progress.

Responding to a question from **SEN. DAN WEINBERG (D), SD 2, WHITEFISH** regarding the ways DPHHS measures the progress of the Children's Mental Health division, **Mr. Chappuis** stated that the new division had aided in the development of children's management authorities, who have streamlined access to pertinent children's services. He also cited the division's work on a home-community-based waiver, which would help DPHHS keep mentally ill children in their families and out of group homes or institutions.

SEN. WEINBERG followed up with a question regarding the consideration of therapeutic outcomes in determining program success, to which Mr. Chappuis replied that DPHHS is currently developing this capability as a part of its commitment to Medicaid Redesign.

SEN. JOHN COBB (R), SD 9, AUGUSTA, asked Mr. Chappuis to provide more information on therapeutic outcomes as soon as possible. **Mr. Chappuis** promised to do so.

Mr. Chappuis also stated that DPHHS is continuing to improve its chemical dependency program, and that the creation of AMDD (Addictive and Mental Disorders) has improved the efficiency of the Department.

Mr. Chappuis then returned to Exhibit 7, discussing Waivers (including Persons with Developmental Disability (DD) Waiver 1915(c), Senior Long Term Care (SLTC) Waiver 1915(c), Medicaid Managed Care 1915(b) Waiver (PASSPORT to Health, Montana's managed health care program for Medicaid enrollees), Basic Medicaid Waiver for Able-Bodied Adults (1115)).

Responding to a question from **REP. MORGAN**, Mr. Chappuis invited Ms. Kelly Williams, Administrator, Senior & Long Term Care for DPHHS, to speak to the Committee. **Ms. Williams** confirmed that there are tax incentives for their seniors or their guardians to purchase their own long-term care insurance.

REP. MORGAN followed up with a question regarding Statewide statistics on using reverse mortgages to fund long-term care insurance.

Ms. Williams agreed to provide this data for the Committee when the Senior & Long Term Care Division offers its presentation.

Ms. Steinbeck interjected with two additional proposals that effect the issue of long-term care funding and will be discussed in Medicaid Redesign.

- to offer a dollar-for-dollar waiver to individuals who purchase long-term care insurance, to help discourage asset transfers made for Medicaid eligibility.
- to extend look-back period for asset transfers from 3 to 5 years, so that estate managers can plan to transfer assets in advance of eligibility for long-term care. This would allow individuals to have those transferred assets disregarded during a Medicaid eligibility determination that occurs within the look-back period.

Mr. Chappuis turned again to Exhibit 7, concluding his discussion of waivers and moving on to Claims Processing.

Responding to **SEN. COBB**, **Mr. Chappuis** stated that the 365-day claim submission period is largely due to Medicaid retro-eligibility and third party liability (TPL) issues.

Continuing with Exhibit 7, **Mr. Chappuis** discussed Rate Setting and Expenditure Analysis. Regarding the latter issue, **Mr. Chappuis** reported that FY 2003 appears inflated because the federal government provided Montana with enhanced matching funds during this fiscal year.

At **Mr. Chappuis'** invitation, **Mr. Bob Andersen, Office of Budget and Program Planning (OBPP)**, reported that matching percentages are calculated using Montana and nationwide data from the three previous years.

On pages 36-38 of Exhibit 7, **Mr. Chappuis** discussed SFY 2003 Expenditures by Major Aid Category, SFY 2003 Expenditures by Provider Type, and SFY 2000 to 2003 Expenditures by Provider Type.

Responding to **REP. MORGAN**, **Mr. Chappuis** offered that waiver fees show the fee paid for services rendered under the terms of the waiver.

SEN. GREG LIND (D), SD 50, MISSOULA, requested information on ways in which the State constrains pharmacy costs. **Mr. Chappuis** replied that DPHHS has several measures in place, including a formulary committee to select drugs available to Medicaid consumers, prior authorization for individual consumers' purchases, required use of available over-the-counter or generic drugs, and the TEAMCARE program, which reviews, restricts, and watches for abuse of pharmacy services.

In response to a question from **SEN. WEINBERG**, regarding ways in which the State might leverage lower drug costs, **Dr. Robert Wynia, Director, DPHHS**, expressed that little can be done on the State level. He suggested that citizens and agencies pressure Senators and Representatives on the federal level to push for transparency in the pharmaceutical industry.

Ms. Steinbeck commented that members might also consider forming an interim committee to investigate drug expenditures and make sure the State is utilizing all possible price controls.

Mr. Chappuis continued with Exhibit 7, discussing charts on Cost Per Service, Units of Service, 10 Year History of Expenditures

and Enrollment, Medicaid growth compared to the Health Care Price Index (HCPI) and the Consumer Price index (CPI) from 1994 to present, All Medicaid Eligibles, 1991-2003; TANF/Medicaid Eligibles, 1999-2003; Disabled/Medicaid Eligibles, 1999-2003; Aged/Medicaid eligibles, 1999-2003 (pgs. 39-44). He noted that TANF is not a part of Medicaid, and that there is crossover among the consumer groups.

Replying to **SEN. COBB**, regarding the meeting of projections, **Mr. Chappuis** stated that the Department's actual outcomes were not as high as hoped. He agreed to provide members with more detailed numbers and information.

Finally, **Mr. Chappuis** discussed Cost Containment, which includes School Based Services, Nurse First, PASSPORT Primary Care Case Management Program, Out-of-State Inpatient & Outpatient Hospital, Senior and Long-Term Care programs, and Patient Registry.

In response to a question regarding contact information for the PASSPORT point-person, Mr. Chappuis provided **SEN. LIND** with the name and telephone number of Ms. Mary Angela Collins, Bureau Chief in Health Services Department (444-4146).

When asked by **REP. MORGAN** about systems that curb the overuse or abuse of Medicaid, **Mr. Chappuis** stated that prior authorization, constant review of usage and, if necessary, management by TEAMCARE serve this purpose. He also noted that federal law keeps the State from referring people to TEAMCARE for the overuse of Emergency Services.

Mr. Chappuis also described the Health Buddy program, a computerized phone system that helps consumers take personal responsibility for their health by telephoning them daily with a list of simple questions that gauge their well-being and help them remember to take medications. Health Buddy also connects consumers to medical personnel in the event of a problem or an emergency. Each individual phone system costs \$200 and is paid for by McKessin Corporation, a consulting firm.

Mr. Chappuis went on to describe briefly the Preferred Drug List, which would help the State to secure enhanced rebates. The state currently has a 19% average return on rebates; a 5% increase would give the State \$5 million. **Mr. Chappuis** stressed that the Preferred Drug List program is not a purchasing pool.

Mr. Chappuis directed members to the Chronology of Major Events in Montana Medicaid, Expenditure and Enrollment Projections, and Projection Expenditures by Provider Type on pages 47-52 of Exhibit 7.

Responding to a question from **REP. MORGAN** regarding Montana's Liens and Estates Recovery Program, **Ms. Mary Dalton, Administrator, Quality Assurance Division**, reported that DPHHS recently moved its Liens and Estates Recovery Program from a contract to an in-house program, and recovered a notable \$2.7 million in 2004.

In conclusion, **Mr. Chappuis** encouraged members to familiarize themselves with the Glossary of Acronyms at the back of Exhibit 7.

Responding to a question from **REP. MORGAN** regarding out-of-state in-patient and out-patient hospital care, **Mr. Chappuis** stated that Chuck Hunter, Administrator, Health Resources, would provide this as a part of the Health Resources Division presentation.

Replying to **SEN. WEINBERG**, **Mr. Chappuis** reported that Montana DPHHS is meeting with other states' Medicaid representatives and very closely monitoring the re-importing and large drug purchasing deals brokered by Maine, Vermont, Wisconsin, and Illinois. He stressed that it would be unwise for Montana Medicaid programs to re-import drugs, thereby jeopardizing Medicaid's 70% federal funds matching benefit.

At **SEN. WEINBERG's** follow-up questions, **Mr. Chappuis** stated that Governor Schweitzer's proposed plan to require declaration of advertising and other expenditures by pharmaceutical companies at work in Montana will have little to no effect on Montana drug prices.

The following exhibits were submitted after adjournment:

[EXHIBIT\(jhh06a08\)](#)

[EXHIBIT\(jhh06a09\)](#)

[EXHIBIT\(jhh06a10\)](#)

ADJOURNMENT

Adjournment: 12:01 P.M.

REP. CHRISTINE KAUFMANN, Chairman

LAURA GOOD, Secretary

CK/LG

Additional Exhibits:

EXHIBIT ([jhh06aad0.PDF](#))